

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Phillip L. Williams And Allyson E.  
Williams**

Case No. 10-81248  
Chapter 13

Social Security No. xxx-xx-6659 and xxx-xx-3569  
Address: 504 Stonelick Dr, Durham, NC 27703-

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Debtors

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**MOTION TO MODIFY PLAN**

**NOW COME the Debtors**, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on July 16, 2010, with the Chapter 13 plan being subsequently confirmed on October 12, 2010.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:  
  
From:           \$1,944.00 per month.  
  
To:             \$1,944.00 per month through December 2010, followed thereafter by  
                  \$1,846.00 per month, starting in April 2010.
3. In addition, the Debtors request a "waiver" to move their Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers the Debtors agree that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtors' case may be dismissed without further hearing by the Court. The Debtors agree that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.
4. The changed circumstances that justify the proposed modification are as follows:
  - a. The Debtors are in the process of seeking a mortgage modification, but have been struggling with their plan payment due to increase utility, gasoline, medical expenses and plumbing repairs.
5. An Amended Schedule I for the Debtors is attached hereto and is incorporated hereto by reference.

6. An Amended Schedule J for the Debtors is attached hereto and is incorporated by reference.
7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325. This modification is feasible because of the following changes, as detailed on the attached Chapter 13 Worksheet:
  - a. Change in length of plan.

**Appended Application for an Additional Attorney Fee**

8. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: April 5, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward C. Boltz  
Edward C. Boltz  
North Carolina State Bar No.: 23003  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

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**CERTIFICATE OF SERVICE**

I, Patty Cherigo, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on April 5, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, or when unavailable, by regular first-class U.S. mail, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
Michael West  
U.S. Bankruptcy Administrator

Phillip L. Williams And Allyson E. Williams  
504 Stonelick Dr,  
Durham, NC 27703-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Patty Cherigo  
Patty Cherigo

In re **Phillip Lee Williams, Sr**  
**Allyson Elizabeth Williams**Case No. **10-81248**

Debtor(s)

**SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:  <b>Married</b>	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S): <b>Daughter</b> <b>Son</b>	AGE(S): <b>15</b> <b>17</b>
<b>Employment:</b>	<b>DEBTOR</b>	<b>SPOUSE</b>
Occupation	<b>Disabled Since 2001</b>	<b>Teacher Assistant</b>
Name of Employer		<b>Durham Public Schools</b>
How long employed		<b>6 Years</b>
Address of Employer		<b>Administrative Unit</b> <b>P.O. Box 30002</b> <b>Durham, NC 27702</b>

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify): **Mandatory Retirement**

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify): **Social Security Income****Social Security Income for Minor Children**

12. Pension or retirement income

13. Other monthly income

(Specify):

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

**None Anticipated**

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)



In re **Phillip Lee Williams, Sr**  
**Allyson Elizabeth Williams**

Case No. **10-81248**

Debtor(s)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S) - AMENDED**  
**Detailed Expense Attachment**

**Other Utility Expenditures:**

<b>Cell Phone</b>	\$	<b>150.00</b>
<b>Cable</b>	\$	<b>72.34</b>
<b>Total Other Utility Expenditures</b>	\$	<b>222.34</b>

# CH. 13 PLAN - DEBTS SHEET (MIDDLE DISTRICT - STEP PLAN)

Date: 3/30/11

Lastname-SS#: Williams-6659 MTM

## RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

## SURRENDER COLLATERAL

Creditor Name	Sch D #	Description of Collateral

Creditor Name	Description of Collateral

## ARREARAGE CLAIMS ON RETAINED COLLATERAL

## REJECTED EXECUTORY CONTRACTS/LEASES

Creditor Name	Sch D #	Arrearage Amount
BB&T		\$13,330
		\$2,049

Creditor Name	Description of Collateral

## LTD - DOT on PRINCIPAL RESIDENCE - OTHER REAL PROPERTY

Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
BB&T		\$834	n/a	n/a	\$834	Pre-Petition
			n/a	n/a		Post-Petition
			n/a	n/a		

## STD - SECURED DEBTS (Retain Collateral & Pay FMV OF Collateral)

Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Beneficial		\$13,602	5.25	\$136	\$251	2nd DOT
			7.00			
			7.00			
			7.00			

## STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Auto Credit		\$8,420	5.25	\$84	\$155	05 Chevy
Citifinancial		\$11,508	5.25	\$115	\$212	04 GMC
			5.25			
			7.00			
			7.00			

## ATTORNEY FEES (Unpaid Paid)

Amount

Law Offices of John T. Orcutt, P.C. \$1,726

## SECURED TAXES

Secured Amount

IRS Tax Liens

Real Property Taxes on Retained Realty

## UNSECURED PRIORITY DEBTS

Amount

IRS Taxes

State Taxes

Personal Property Taxes

\$127

Alimony or Child Support Arrearage

## CO-SIGN PROTECT (Pay 100%)

Int. Rate

Payoff Amount

All 'Co-Sign Protect Debts (See\*\*\*\*)

## GENERAL NON-PRIORITY UNSECURED

Amount to Pay

DMI = None(\$0)

## PROPOSED CHAPTER 13 PLAN

\$ 1846 /month for 57 months, then

\$ N/A /month for N/A months.\*\*

## Definitions

Sch D # = The number of the secured debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

\* = Minimum of DMI x ACP, minus all co-sign protect debt.

\*\* = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

\*\*\* Co-sign protect on all debts so designated on filed schedules D, E and F

Final\_MD\_Step (rev. 11/6/07) © Copyright by John T. Orcutt (Page 4 of 4)

## Other Miscellaneous Provisions